

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

00-CR-199S

v.

ORDER

JULIO NUNEZ,

Defendant.

On March 8, 2013 Magistrate Judge Hugh B. Scott issued a Report and Recommendation advising this Court to commit Nunez to the custody of the Attorney General under 18 U.S.C. § 4241(d). There were no substantive objections to the Report and Recommendation. Rather, the Government's lone objection – objecting to the Report and Recommendation "to the extent it presupposes the release of defendant in the absence of a psychiatric finding concerning restoration if this Court determines that defendant is presently incompetent to proceed to trial" – is noted for the record. Having reviewed the Report, this Court agrees with its analysis and conclusions. Accordingly,

IT HEREBY IS ORDERED that the Report and Recommendation (Docket No. 913) is ACCEPTED.¹

FURTHER, that pursuant to 18 U.S.C. § 4241(d), the defendant is committed to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for

¹A copy of that Report is attached as Exhibit A.

treatment in a suitable facility to determine whether there is a substantial probability that in the foreseeable future the defendant will attain the capacity to permit the proceedings to go forward.

FURTHER, the director of the facility shall prepare and submit a report to the Clerk of the Court sometime before August 1, 2013, opining on whether Defendant will ever attain the capacity to permit the proceedings to go forward;

FURTHER, if at any time the director of the facility in which the defendant is hospitalized determines that the defendant has recovered to such an extent that the defendant is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, the director shall promptly file a certificate to that effect with the Clerk of the Court;

FURTHER, if necessary, the United States Marshal is directed to arrange for the hospitalization ordered herein on the date and at the time set by the Marshal and the designated institution;

FURTHER, that a status conference, for counsel only, relative to this matter is hereby scheduled for August 1, 2013, at 9:00 A.M. The Government shall inquire into the status of the director's report on competency before this date.

FURTHER, that until the issues of the defendant's mental competency are resolved, time is excluded for purposes of the Speedy Trial Act pursuant to the provisions set forth in 18 U.S.C. § 3161(h)(1)(A).

SO ORDERED.

Date: April 24, 2013

Buffalo, New York

s/William M. Skretny

WILLIAM M. SKRETNY

Chief Judge

United States District Court